

AWARD

An industrial dispute arose between the workmen and the management of M/s Pioneer Refractories Co., Faridabad, and the same was referred for adjudication to this Tribunal, — vide Government Gazette Notification No. ID/FD/500-A/12550, dated 27th April, 1970. The items of dispute referred for adjudication are as under :—

1. Whether workmen are entitled to the grant of D. A.? If so, with what details and from which date?
2. Whether workmen are entitled to the grant of bonus for the year 1968-69? If so, with what details?

On receipt of the reference usual notices were issued to the parties. The disputes have been compromised and the parties have filed the settlement bearing their signatures. As regards bonus for the year 1968-69 which is item No. 2 of the order of reference, it is agreed that the management would pay bonus at the rate of 6% of the wages earned by the workmen during the year 1969-70.

With regard to dearness allowance which is item No. 1 of the order of reference it is agreed between the parties that the dearness allowance to the workmen would be linked with the cost of living index as published for the State of Delhi with the base year 1960 with effect from 1st May, 1970. The management would pay 50 paisa per point of increase in the cost of living index and the dearness allowance would be increased or decreased as per the rise or fall in the cost of living index but the existing wages which the workmen are getting at present would not be reduced. The adjustment would be made every six months.

The management would also implement the provisions of the Punjab Industrial Establishments (National Festival Holidays and Casual and Sick Leaves) Act, 1965. The statement of the representative of the parties have been recorded and they accept these terms of settlement which appear to be just and fair. I give my award according to the terms of compromise.

No order as to cost.

P. N. THUKRAL,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

Dated the 4th August, 1970.

No. 1180, dated the 6th August, 1970.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

P. N. THUKRAL,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

Dated, the 4th August, 1970.

The 25th August, 1970

No. 7482-ILab-70/25129.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Haryana, Faridabad, in respect of the dispute between the workmen and the management of M/s Pindi Store Crushing Company Gurgaon.

BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, LABOUR COURT,
HARYANA, FARIDABAD

Application No. 23/70 under section 33-C(2) of the Industrial Disputes Act, 1947.

between

SHRI ASSA RAM, WORKMAN AND THE MANAGEMENT OF M/S PINDI STONE CRUSHING COMPANY, GURGAON

Present.—

Shri C. B. Kaushik for the workman.

Nemo for the management.

ORDER

Shri Assa Ram, workman of M/s Pindi Stone Crushing Company, Gurgaon, brought this application under section 33-C(2) of the Industrial Disputes Act, 1947 claiming a sum of Rs. 4,427.81 on account of his wages as per details given in the application. Notice of the application was given to the respondent but service has not been effected. No fresh notice is, however, necessary as the applicant does not want to proceed with this application due to change in the name of the industry concerned. He has to bring a fresh application against the proper industry. Statement has been recorded.

In view of the above, it is not necessary to go into the merits of the present application which shall stand dismissed as withdrawn with right to institute a fresh application against the proper industry.

O. P. SHARMA,

The 19th August, 1970.

Presiding Officer,
Labour Court, Haryana,
Faridabad.

No. 372, dated Faridabad the 20th August, 1970

Forwarded (two copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under sub-section 4 of section 33-C of the Industrial Disputes Act, 1947.

O. P. SHARMA,

Presiding Officer,
Labour Court, Haryana,
Faridabad.

The 28th August, 1970

No. 7345-II Lab-70/24641.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Haryana, Faridabad, in respect of the dispute between the workmen and the management of M/s Rohtak District Transport Co-operative Society Ltd., Rohtak.

**BEFORE SHRI. P. N. THUKRAL, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD**

Reference No. 60 of 1968

between

**THE WORKMEN AND THE MANAGEMENT OF M/S ROHTAK DISTRICT TRANSPORT
CO-OPERATIVE SOCIETY LTD., ROHTAK**

Present :—

Neither party is present.

AWARD

An industrial dispute arose between the workmen and management of M/s Rohtak District Transport Co-operative Society Ltd., Rohtak and the same was referred to this Tribunal for adjudication,—*vide* Gazette notification No. ID/RK/47-B-68/28941 dated 15th November, 1968. The items of dispute referred for adjudication are as under :

1. Whether the workers of this company working at the Petrol Pump at Jhajjar should be given all the facilities and privileges as are given to other workers of this company. If so, with what details and from which date?
2. Whether the management should refund the securities obtained from the drivers and also deposit the securities obtained from other staff in the bank in their names? If so, with what details?
3. Whether the rate of Lorry Income allowance should be increased? If so, with what details and from which date?

On receipt of the reference usual notices were issued to the parties. A lot of time was taken in effecting the service of the parties. The management filed their written statement only on 22nd October, 1969 in which it was stated that they have provided all the facilities to the workmen working at the Petrol Pump at Jhajjar and the securities which had been obtained from the drivers had been refunded. As regards the Lorry washers it was pleaded that they have left the service.

Since the representative of the workmen was not present on the date on which the written statement was filed, it was considered necessary to ascertain whether, in view of the submission of the management that the necessary facilities had been provided to the workers of the Petrol Pump and a security had been refunded there still remained any dispute between the parties. A number of notices had to be issued to the representative of the workmen for this purpose because their service was not effected in spite of the notices being issued to them at the address given by them. Ultimately their services was effected for 15th July, 1970. No body appeared on behalf of the workmen on the date fixed in spite of the service of the notice. No representative of the management was also present on the date fixed but in view of the submissions of the management made in the written statement, dated 22nd October, 1969 that the necessary facilities had been provided to the workmen working at the Petrol Pump and the securities had been refunded, it does not appear that any industrial dispute now remain be ween the parties with regard to first two items of the disputes as contained in the order of reference. No adjudication on these two points is, therefore, needed.

As regards item No. 3 of the order of reference the management in their written statement have alleged that all the Lorry washers have left. Since no body has appeared on behalf of the workmen to persue this demand, it has also become infructuous. I give my award accordingly.

No order as to cost.

Dated the 10th August, 1970.

P. N. THUKRAL,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 1215, dated 13th August, 1970

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, under section 15 of the Industrial Disputes Act, 1947.

P. N. THUKRAL,

Dated the 10th August, 1970.

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 7346-1Lab-70/24643.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Haryana, Faridabad, in respect of the dispute between the workmen and the management of M/s Oriental Industries, Faridabad.

BEFORE SHRI P. N. THUKRAL, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, HARYANA, FARIDABAD

Reference No. 89 of 1969

between

THE WORKMEN AND THE MANAGEMENT OF M/S ORIENTAL INDUSTRIES, FARIDABAD

Present :

Shri Darshan Singh, for the workmen.

Shri Parkash Chand Luthra, for the management.

AWARD

An industrial dispute arose between the workmen and the management of M/s. Oriental Industries Faridabad and the same was referred to this Tribunal for adjudication,—*vide* Government Gazette notification No. ID/FD/64-A/34939, dated 29th December, 1969. The item of dispute referred for adjudication is as under :—

“Whether the workmen of the factory are entitled to the grant of bonus for the years 1967 and 1968 ? If so, with what details ?”

On receipt of the reference usual notices were issued to the parties. It is, however, not necessary to decide the case on merits because a compromise has been effected between the parties and the terms of compromise are contained in Ex. M. I. The statements of the representatives of the parties have been recorded and they admit the correctness of the compromise. The management have agreed to pay bonus at the rate of 6 per cent of the annual earnings to each of the workmen for the year 1968 on or before 20th August, 1970 and they have also agreed to implement the minimum wages in the Engineering Industries as notified by the State Government of Haryana, if not already implemented.

As regards the claim for bonus to be paid for the year 1967 a compromise has been effected between the parties which has been recorded in Reference No. 58 of 1968. According to the terms of compromise the management have agreed to pay bonus to their workmen at the rate of 5 per cent of their annual earning.

The terms of compromise appear to be fair and reasonable and I give my award in terms of compromise. No order as to cost.

Dated the 10th August, 1970.

P. N. THUKRAL,

Presiding Officer,
Industrial Tribunal, Haryana
Faridabad.

No. 1213, dated, the 13th August, 1970

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Department, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

Dated the 10th August, 1970.

P. N. THUKRAL,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 7342-I-Lab-70/24645.—In pursuance of the provisions of section 17 of the Industrial Disputes Act 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Haryana, Faridabad, in respect of the dispute between the workmen and the management of M/s Laxmi Rattan Engineering Works Ltd., Faridabad:—

**BEFORE SHRI P.N. THUKRAL, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD**

Reference No. 2 of 1970

between

**SHRI KANHIYA LAL, WORKMAN AND THE MANAGEMENT OF M/S LAXMI RATTAN
ENGINEERING WORKS, LTD., FARIDABAD**

Present.—

Shri Onkar Parshad, for the workman.

Shri R. C. Sharma, with Shri A. P. Jain, for the management.

AWARD

Shri Kanhiya Lal was in the service of M/s Laxmi Rattan Engineering Works, Ltd., Faridabad. He was working in Foundry Shop (Core Shop Section). It is alleged that on 24th March, 1959, he made defective core of Cylinder heads upon which the Foundry Superintendent called him through a worker Shri Sodan, token No. 132, to the head section of the Foundry Shop but Shri Kanhiya Lal refused to come. It is alleged that Shri R. K. Tandon, Foundry Shop Superintendent, along with Shri Narain Dass and Asha Ram themselves then went to the Core Shop and enquired from Shri Kanhiya Lal the reason for defective making of the core and also showed him the defective core but the workman behaved impertinently and told Shri Tandon that he would not see the aforesaid core and Shri Tandon could do what he liked. Accordingly Shri Kanhiya Lal was charge-sheeted and placed under suspension and a domestic enquiry was held against him by Shri R. P. Jaggi. Shri Kanhiya Lal was found guilty and in view of the seriousness and the gravity of the misconduct he was dismissed from service with effect from 10th April, 1969.

The workman was aggrieved by reason of his dismissal and this gave rise to an industrial dispute. Accordingly the Governor of Haryana, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, referred the following dispute to this Tribunal for adjudication,—*vide* Government Gazette Notification No. ID.FD.15-C-69/323, dated 5th January, 1970 :—

“Whether the termination of services of Shri Kanhiya Lal was justified and in order? If not, to what relief is he entitled?”

On receipt of the reference usual notices were issued to the parties in response to which a written statement was filed on behalf of the management and the workman filed his rejoinder to the same. The workman pleads that the Enquiry Officer was partial and in fact he was himself representing the management and his findings are biased. It is alleged that the workman has been victimised on account of his Trade Union Activities.

The management in their written statement raised a number of preliminary objections which were, however, given up. On merits the only issue which arose from the pleadings of the parties was precisely the same as in the order of reference. The parties were, therefore, directed to produce evidence in support of their respective contentions. Shri A. P. Jain has produced the record of the domestic enquiry held against the workman. As Shri R.P. Jaggi, Enquiry Officer, is no longer in the service of the respondent company, his writing and signatures have been proved by Shri Jain. Since the workman did not question the correctness of the record of the domestic enquiry it was not considered necessary to summon Shri R. P. Jaggi, through Court. The management has filed his formal affidavit and the workman has filed his objections against the propriety of the domestic enquiry held against him. It is pleaded that properly speaking the question of any loss to the Company by reason of the alleged defective core could not arise because the filling of the core is done with earth and a defect could not cause any loss to the Company and there is no evidence that the workman caused the defect intentionally. As regards the disobedience of lawful and reasonable orders it is pleaded that the workman never refused to obey the orders of Shri Tandon, and the evidence produced before the Enquiry Officer did not support this charge. It is submitted that Shri Sodan, who was examined as M. W. 4 before the Enquiry Officer stated that when he went to call Shri Kanhiya Lal, he was not at his seat as he had gone to make water and this version was also supported by Sarvshri Glas Ram, Vedi Ram, Hari Chand, and Ram Kumar, who have appeared in defence. As regards the alleged impudent behaviour of the workman it is stated that the charge is vague because it is not mentioned that Shri Tandon, Superintendent or Shri Narayan Dass, asked the workman to see the defective core. It is further alleged that during the enquiry both Shri Tandon and Shri Narayan Dass, stated that the workman was disrespectful to them because each of them had asked him to see the core and in this manner there evidence did not corroborate each other. On the contrary it is submitted that the evidence of Sarvshri Glas Ram, Hari Chand, Vedi Ram and Ram Kumar who were present at the time of the alleged incident had denied this charge all together.

As regards the domestic enquiry it is pleaded that the charge-sheet was served on the workman on 27th March, 1969 and on the very next day he was directed to appear before Shri R. P. Jaggi and was asked to give his explanation as to why departmental action be not taken against him. Thus Shri Jaggi was acting as Labour Officer on behalf of the management and not as an Enquiry Officer. The workman was not given a reasonable time to prepare his defence.

It is also pleaded that during the enquiry, the Enquiry Officer was in fact representing the management because he asked question to Shri Sodan, M. W. 4 and other witnesses who appeared on behalf of the workman as to whether they were members of the Union. From the point of view of the representative of the workman the Enquiry Officer regarded the membership of the union as if it was a mis-conduct and for this reason he had disbelieved their evidence and he also imported his personal knowledge.

I have carefully gone through the record of the domestic enquiry and have considered the submissions of the learned representative of the workman. It is true that a reasonable time was not given to the workman to prepare his defence because the charge-sheet was admittedly given to him on

27th March, 1969 and he was asked to appear before the Enquiry Officer on the very next day but the learned representative has not shown that the workman was actually prejudiced on account of this short notice. He has not explained what other defence the workman could have taken but which he could not take on account of his short time given to him. As regards the allegation that the Enquiry Officer did not act in a impartial way, the learned representative of the workman forgets that the managerial enquiry is an administrative action and is not a judicial trial. The Enquiry Officer is invariably an employee of the management but this fact by itself is not sufficient to set aside a domestic enquiry. It has been held by the Supreme Court in the case of Indian Iron and Steel Company Ltd., and reported in A. I. R. 1958 Supreme Court 130 that the Tribunal would be justified in interfering with the order of dismissal or discharge of a workman only in the following three cases, namely :—

- (i) when there has been want of good faith or victimisation or unfair labour practice ;
- (ii) when there has been a basic error of violation of principle of natural justice; or
- (iii) when the finding of the management is entirely baseless or perverse.

It has also been held by the Supreme Court in the case of G. Mekenzie and Co. Ltd., and reported in A. I. R. 1959-5C-389 that the Tribunal is not expected to sit in appeal over the decision of the employer. If the enquiry by the management is not vitiated by any infraction of the rules of industrial justice and misconduct of the workman which merits his dismissal or discharge has been proved, the Tribunal has no power to interfere with the order made by the employer.

Thus we see that Tribunal has only a limited scope of enquiry in such cases and for the purpose of deciding whether the enquiry against the workman was vitiated or not, it is not possible to go into the question as to whether the Enquiry Officer was justified or not in believing or disbelieving the evidence of any party. It is not the case of the workman that Shri Jaggi, was a witness of the occurrence. Shri Jaggi has discussed in detail the evidence of the witnesses produced before him and has observed that after examining the testimony of both sides he had no reason to disbelieve the version of the management and in his opinion, it was established that the charges levelled against the workman under standing orders Nos. 19(1)(12)(18), were established beyond doubt and accordingly he held the workman guilty of the same. It is possible that after examining the evidence, I may come to a different conclusion but that would be no reason for setting aside the enquiry. In my opinion therefore the dismissal of the workman can not be held to be unjustified because the charges levelled against the workman were very serious and the domestic enquiry in which these charges are said to have been established is not found to be vitiated. I am, therefore, of the opinion that the workman is not entitled to any relief. I give my award accordingly. No order as to cost.

Dated 7th August, 1970.

P. N. THUKRAL,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 1227, dated 13th August, 1970.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under Section 15 of the Industrial Disputes Act, 1947.

P. N. THUKRAL,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

Dated 7th August, 1970.

No. 7341-1Lab/70/24640.—In pursuance of the provisions of sections 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Haryana, Faridabad in respect of the dispute between the workman and the management of M/s Eastern Electronics, (Delhi) (P) Ltd., Faridabad:—

BEFORE SHRI P. N. THUKRAL, PRESIDING, OFFICER INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD
Reference No. 49 of 1970
between

SHRI MAN MOHAN WORKMAN AND THE MANAGEMENT OF M/S EASTERN
ELECTRONICS (DELHI) (P) LTD., FARIDABAD.

Present .—

Shri Onkar Parshad, for the workmen.

Shri A. R. Handa, for the management.

AWARD

Shri Man Mohan was in the service of M/s Eastern Electronics (Delhi) (P) Ltd., Faridabad. His services were terminated and this gave rise to an industrial dispute. Accordingly the Governor of Haryana in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, referred the following dispute to this Tribunal for adjudication,—*vide* Government Gazette Notification No. ID/FD/238F/7060, dated 10th March, 1970 :—

Whether the termination of services of Shri Man Mohan was justified and in order ? If not, to what relief is he entitled ?

On receipt of the reference usual notices were issued to the parties in response to which a statement of claim was filed on behalf of the workman and the management filed their written statement. The case of the management against the workman is that on 23rd July, 1969 at about 4 P. M. the Engineer Incharge Shri R. V. S. Moni came to the seat of the workman and found him sitting idle and when asked the reason for sitting idle, the workman replied that there was no work for him to do, where upon Shri Moni told him how could he make that statement when about 50 coils were lying on his work bench for filling of laminations and that before also he had been verbally warned for being absent from his seat and for not working. It is alleged that the workman became enraged and told Shri Moni in a loud voice "Jo Chaho Karo, Mera Koi Kuchh Nahi Kar Sakta, Ham Dekh Len Gen". Roughly translated this means that the workman said "You may do whatever you want, no body can do any thing against me, we will see to it".

The second charge against the workman is that on 18th August, 1969 at about 9 A. M. Shri A. R. Handa Labour Officer of the management started from the factory on cycle to go to the Labour Court. The workman followed him on another cycle and when Shri Handa reached No. 2 Township Crossing, the workman came near him and said that he Shri Handa had written the chargesheet-cum-suspension order, dated 24th July, 1969, and that it was he who got workers dismissed and he (the workman) would not tolerate this and not only would be render his functioning in the factory impossible but would even his visiting Faridabad and that he (Shri Handa) had not dealt with a person like him (the workman) who did not care for service and would have him stabbed him to death.

The management held a domestic enquiry in which both the charges are said to have been established and accordingly the workman was dismissed.

The management in their written statement also raised a preliminary objection that the order of reference was not legal because no demand had been made by the workman directly to the management which was rejected by them, therefore there was no industrial dispute between the parties which could be made a subject matter of reference. In order to dispose off this objection the following preliminary issue was framed. :—

"Whether the reference is incompetent and invalid because no demand was made to the management which was refused" ?

After hearing the representative of the parties this issue was found in favour of the workman,—*vide* the order of this Tribunal, dated 2nd May, 1970 which is annexure 'A' to this award.

On merits the only issue which arose from the pleadings of the parties was precisely the same as in the order of reference. The parties were directed to produce their evidence in support of their respective contentions. The management produced the record of the domestic enquiry held against the workman. The workman has not challenged the correctness of the record of the domestic enquiry. The management have therefore formally proved the record of the inquiry by the affidavit of the Enquiry Officer. The workman has filed his objection against the validity of the enquiry held against him and the findings of the Enquiry Officer.

According to the workman the domestic enquiry is vitiated because it is against the principles of natural justice and the findings are perverse. It is alleged that no charge of wilful disobedience under clause 14(3) (a) of the Certified Standing Orders could stand against the workman because it is not even alleged that he disobeyed any express orders of his superior. As regards the charge of riotous mis-behaviour under clause 14(3) (b) and striking work under clause 14(3) (k), it is stated that the evidence before the enquiry Officer was not satisfactory. With regard to the second charge-sheet dated 22nd August, 1969, it is stated that even according to the management the alleged incident took place outside the factory premises and the management have not referred to any provisions of the Certified Standing Orders on which the charge is based. It is stated that the workman must have given expression to his feelings to the Labour Officer Shri A.R. Handa regarding the manner in which he dealt with Labour without using any threatening Language. The findings of the Enquiry Officer are said to be perverse on the ground that he has not properly appreciated the evidence and has disbelieved the defence evidence for no reason whatsoever. It is alleged that workman has been prejudiced in his defence because he was not allowed to be represented

by a representative of his choice. The principles of natural justice are said to be violated because the management did not give him any opportunity to show cause before his dismissal as required by clause 'C' of para 2 of the Model Standing Orders of the Government of Haryana which have come into force with effect from 25th September, 1969, and are applicable to the respondent factory. The punishment awarded to the workman is also said to be illegal because his previous record was not taken into consideration as required by the Model Standing Orders.

I have carefully considered the submissions of the learned representative of the management and in my opinion it is not possible for this Tribunal to sit as a Court of appeal and re-appreciate the evidence produced before the Enquiry Officer and set aside the findings of the Enquiry Officer, if after considering the evidence I came to the conclusion that the evidence produced by the management is not satisfactory and does not establish the charges levelled against the workman. If what the management allege against the workman is correct that he was found sitting idle during working hours although he had work to do and when the Engineer Incharge asked him the reason for sitting idle he behaved very rudely with him and insulted him, then it can not be said that the charge was not serious enough and it does not amount to sticking to work or disobedience of lawful order of the management. It will not be out of place to point out that when this charge sheet was given to the workman he did not come up with any counter version. He simply denied the correctness of the allegations made against him and made a counter allegation that false charge had been levelled against him in order to prevent him from forming a union and to harass him. He posesas a very good worker and in his explanation has made a tall claim that he had never disobeyed any officer. It would have been possibly to appreciate the stand taken by the workmen in case he could show that he had taken some concrete steps to form a of union of his co-workers and the management on coming to know of it warned him not to indulge in such activities and on his refusal to do so terminated his services the workman has led no evidence to this effect.

The reply of the workman to the second charge sheet, dated 22nd August, 1969 is equally vague. He flatly denied the allegations of the management that on 18th August, 1969, at 9.00 a.m. he misbehaved with Shri A. R. Handa the Labour Officer of the company at the crossing of neighbourhood No. 2 and threatened to get him stabbed to death. The workman simply challenged the management to get the case investigated by the police. It can not be said off hand if the threats said to have been held out by the workman amount to a cognizable offence but this such is clear that if what the management have alleged is true then the act of the workman to say the least was very reprehensible and no management can possibly be asked to keep such a workman in their employment. It would not be out of place to point out at this stage that the learned representative of the workman in the objections filed by him against the enquiry held by the management did not take up the stand that the allegations levelled by the management were wholly without basis. the stand taken up by him is that the workman must have simply told Shri Handa that he was not dealing fairly with him. If that was so, the workman should have honestly come out with the truth in very first instance when the charge sheet was given to him and should not have stated that the charge was wholly false and baseless and if the allegation made against him are behaved to be true then the case be got investigated by the police. No management can function if the workman is given freedom to threaten to kill an officer of the Company for the action which is being taken by him against the workman in discharge of his duties.

As regards the objection that the previous record of the workman was not taken into consideration as required by the Model Standing Order which are applicable to the respondent company. The learned representative of the management has rightly pointed out that even if the previous record of the workman had been looked into and it was found that he had a clean record that would not have made any difference because the charges framed against the workman were so serious that if proved to be well founded then the only punishment that could be imposed upon the workman was that of dismissal. The authority cited as XXXII F.J.R. 422 clearly supports this view.

As regards the objection that the workman was not given an opportunity to show cause before imposing the penalty of dismissal as required by clause (C) of para 2 of the Model Standing Orders. The learned representative of the management has also rightly pointed out that these standing orders came into force only on 25th September, 1969 and therefore they could not have a retrospective effect.

Hence after carefully considering the objections raised by the learned representative of the workman against the domestic enquiry held against this workman. I am of the opinion that there is no force in any of the objections raised and it is not possible to hold that the inquiry is vitiated for any of the reasons mentioned by the learned representative of the workman. Accordingly I hold that the dismissal of the workman was justified and in order and he is not entitled to any relief. I give my award accordingly. No order as to costs.

P. N. THUKRAL,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

Dated 5th August, 1970.

No. 1228, dated 14th August, 1970

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

Dated 5th August, 1970.

P. N. THUKRAL,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

BEFORE SHRI P. N. THUKRAL, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, HARYANA FARIDABAD

Reference No. 49 of 1970

Between

SHRI MANMOHAN WORKMAN AND THE MANAGEMENT OF M/S EASTERN ELECTRONICS, (DELHI) (P) LTD., FARIDABAD

Present :—

Shri Onkar Parshad, for the workmen.

Shri A. R. Handa, for the management.

ORDER

Shri Manmohan was in the service of M/s Eastern Electronics (Delhi) (P) Ltd., Faridabad. His services were terminated and this gave rise to an industrial dispute. Accordingly the Governor of Haryana, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, referred the following dispute to this Tribunal, for adjudication,— vide GOVERNMENT GAZETTE notification No. ID/FD/238F/7060, dated 10th March, 1970.

“Whether the termination of services of Shri Manmohan was justified and in order? If not to what relief is he entitled?”

On receipt of the reference usual notices were issued to the parties in response to which a statement of claim was filed on behalf of the workman and the management filed their written statement. On behalf of the management a preliminary objection has been raised that the reference is illegal because the workman did not give a formal notice to the management contesting the validity of the dismissal and since this demand has not yet been formally rejected by the management, there is no industrial dispute between the workman and the management. In order to dispose off this objection the following preliminary issue was framed.

“Whether the reference is incompetent and invalid because no demand was made to the management which was refused?”

I have heard the learned representative of the parties. It is submitted by the learned representative of the management that in order to constitute an industrial dispute it is essential that a demand must first be raised by the workman on the employer and rejected by him before an industrial dispute can be said to arise and exist for the purpose of Industrial Disputes Act and that making of such demand on the Conciliation Officer and its communication to the employer who rejects the same would not be sufficient to constitute an industrial dispute. In support of this submission reliance is placed upon a Division Bench Authority of the Delhi High Court given in Fedders Loyal Corporation case and reported in 37 FJR-69.

I have carefully considered the authority cited above and in my opinion this authority is distinguishable. In the authority cited above the case of the management was that the workman had expressed his inability to work and be resigned. He was, therefore, relieved of his duty, *ex gratia* payment was also made to him on the basis of compensation generally paid to the workers who are retrenched from service. The workman accepted this amount and gave a receipt in full and final settlement of all his claims and on his request a service certificate was also issued to him, in which it was stated that the workman had resigned from service. This service certificate was also accepted by the workman with thanks and he did not make any further demand on his employer directly. The workman was, however, not satisfied by reason of the termination of his service and he wrote a letter to the Labour Commissioner, Delhi, in which he alleged that his retrenchment from service was wrongful and arbitrary and he prayed that the retrenchment be set aside and he be reinstated in service. The employer came to know of this notice only when he received a copy of the same from the Conciliation Officer, Delhi. The employer resisted the claim of the workman even before the Conciliation Officer on the ground that there was no industrial dispute between the parties which could be referred to industrial adjudication but never the less the Delhi Administration made an order of reference. It was on the facts that it was held by the Hon'ble High Court that it is essential that the demand by the workman must first be raised on the employer and rejected by him before an industrial dispute can be said to arise and exist for the purpose of Industrial Disputes Act and that the making of such a demand on the Conciliation Officer and its communication by him to the employer who rejects the same would not be sufficient to constitute an industrial dispute.

The authority cited by the learned representative of the management is distinguishable because in the instant case the management never came to know from the workman directly that he was in any manner aggrieved by reason of the termination of his services. As already pointed out the case of the management was that the workman himself did not wish to continue in service and wanted to resign. He was not retrenched from service and therefore the question, whether his retrenchment was wrongful or arbitrary did not arise. It was not a case of termination of service by any act of the management because the workman himself did not wish to continue in service. In case the workman did not wish to resign and wanted to continue in service he should have at least informed the management of his desire to remain in service. The workman did not do any such thing. He accepted the retrenchment compensation which was paid to him *ex-gratia* and he also accepted the service certificate with thanks in which it was stated that the workman had himself resigned from service. Thus the management never had any means of knowing that the workman was not happy to go out of service and there was never any refusal on their part to let the workman continue in service. Under these circumstances there was no question of any industrial dispute existing between the parties.

The facts of the present case are wholly different. It is not even the case of the management that the workman has voluntarily left the service. The case of the management is that the workman was guilty of wilful disobedience to lawful and reasonable orders of his superiors and he was also guilty of riotous behaviour during working hours in the premises of the establishment and that he struck work. It is also the case of the management that on 18th August, 1969 at about 9.00 A. M. the workman pursued Shri A. R. Handa the Labour Officer of the respondent company and threatened him with dire consequences because he was said to be responsible for terminating the services of the workman. In reply to the charge-sheet served on him the workman denied the correctness of all the allegations made against him. The management held a domestic enquiry through Shri Chanda Personnel Officer. The enquiry was defended by the workman himself but the Enquiry Officer held that the charges against the workman were satisfactorily established and he was consequently ordered to be dismissed from service. Thereafter the workman served a formal notice of demand on the management through Shri Onkar Parshad, Secretary of the Engineering Mazdoor Union, Faridabad contesting the validity of the termination of services. A copy of this notice of demand was forwarded to the Conciliation Officer. The management did not give any reply to this notice or demand sent to them on behalf of the workman. The Conciliation Officer initiated conciliation proceedings on receipt of the copy of the demand notice and in due course submitted a report to the Government that he had failed to effect conciliation and there-after the reference was made to this Tribunal. Thus we see that in the present case the workman was challenging the validity of the action of the management from the very beginning. He did not accept the correctness of the chargesheet framed against him. He defended himself during the course of the domestic enquiry held against him and when he was dismissed from service in spite of his protest a notice of demand was served on his behalf directly on the management. Simply a copy of this demand notice was sent to the Conciliation Officer. If the management did not choose to give a reply to this notice of demand to the workman he was not to be blamed for it. In my opinion therefore the authority cited by the learned representative of the management is not applicable to the facts of the present case and the order of reference made to this Tribunal is perfectly in order. I find this issue against the management.

On merits the only issue which arises from the pleadings of the parties is precisely the same as in the order of reference. The parties are directed to produce their evidence on 26th May, 1970 at Faridabad. Order announced to the representative of the parties who are present in the Court.

Dated 2nd May, 1970.

P. N. THUKRAL,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

B. L. AHUJA,

Commissioner for Labour and Employment.

LABOUR AND EMPLOYMENT DEPARTMENT

The 27th August, 1970

No. 6847-3Lab-70/25000.—In supersession of Haryana Government Notification No. 1648-3Lab-70 dated the 3rd March, 1970, the Governor of Haryana is pleased to reconstitute the State Labour Advisory Board consisting of the following members :—

OFFICIALS

1. Agriculture and Labour Minister, Haryana

Chairman

2. Secretary, Labour and Employment	..	Member
3. Director of Industries	..	Ditto
4. Director of Employment and Training	..	Ditto
5. Labour Commissioner	..	Member-Secretary
6. Provincial Transport Controller, Haryana	..	Member

REPRESENTATIVES OF EMPLOYERS

1. Shri Bishamber Dass Kapur, the Atlas Cycle Industries Ltd., Sonepat	..	Ditto
2. Shri P. D. Makharia, General Manager, T. I. T. Mills, Bhawani	..	Ditto
3. Shri Charman Sahni, President, Industrial Association, Faridabad	..	Ditto
4. The Chairman, Punjab, Haryana and Delhi Chambers of Commerce and Industries or his nominee.	..	Ditto

REPRESENTATIVES OF EMPLOYEES

1. Shri Madhu Sudan, I. N. T. U. C., Yamunanagar	..	Ditto
2. Ch. Tulsi Ram, Harijan (Representative of Kisan Mazdoors) Village and Post Office Amin, Tehsil and District Karnal	..	Ditto
3. Shri Kalwant Rai Sharma, I. N. T. U. C. Worker, T. I. T. Mills, Bhiwani.	..	Ditto
4. Shri Dharam Vir Vashisht, ex-MLA, Ballabgarh, District Gurgaon.	..	Ditto

2. The headquarters of the Board would be at Chandigarh and it may hold its sessions/meetings at any other place in the Haryana, as and when necessary.

3. Members of the Legislature if any nominated on the Broad will act in their personal Capacity.

4. The members of the Committee will draw T. A. according to the principles set out in para 3(viii) of the Chief Secretary U. O. No 18-PPA(5)-66, dated 23rd November, 1966. Non-officials other than M.L.As/ M. Ps. shall draw T.A. and daily allowance at one 1st Class Railway fare plus incidental allowance and road mileage as admissible to a 1st Grade Government employee drawing a pay Rs 1,000 and Rs 9.00, Rs 11.25/ 13.50 in plains/Hills/Special Hills tracts as daily allowance. The other conditions laid down in Punjab T.A. Rules for Government Employees will also apply to journeys performed by non-official members except where otherwise provided.

5. The Labour Commissioner, Haryana, shall countersign the T. A. Bills of all the non-official members of the Board for attending the meeting of the Board.

6. The expenditure in respect of T. A. of the non-official members of the Board shall be debited to the head 38-Labour and employment B-1-Labour (Non-Plan).

7. The Board is constituted for a period of one year with effect from the date of the notification. The meeting of the Board may be convened at any time as and when considered necessary by the Chairman.

B. L. AHUJA, Secy.

TOWN AND COUNTRY PLANNING DEPARTMENT

The 14th July, 1970

No. 5254-VDP-70 4086.—In exercise of the powers conferred by sub-section (i) of section 4 of the Punjab Scheduled Roads and Controlled Areas Restriction of Unregulated Development Act, 1963, the Governor of Haryana is pleased to declare the area around the cantonment of Ambala as specified in the

Schedules given below and shown in the plan appended hereto be a controlled area for the purpose of the said Act, namely :—

SCHEDULES

North :—Starting from the point marked "A" on the drawing No. D.T.P. (A)/1663/70, where Ambala Cantonment boundary meets the Southern boundary of Pucca road from Ambala Cantt. to village Boh, towards East along the Southern boundary of above road upto point B, where it meets the Western boundary of Tangri Nadi.

East :—Thence Southwards along the Western boundary of Tangri Nadi up to point "C" where it meets North-Eastern boundary of Ambala-Delhi Railway line.

South :—Thence North-Westwards along North-Eastern boundary of Ambala-Delhi Railway line up to point "D", meeting with the Cantonment boundary.

West :—Thence North-Eastwards and North along the boundary of the Cantonment up to the point of start "A".

(Sd.) , Dy. Secy.

[PART I] HARYANA GOVT. GAZ., SEPT. 8, 1970 (BHADRA 17, 1892 SAKA)

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AMBALA CANTT CONTROLLED AREA

INSET PLAN

This inset plan map shows the layout of Ambala Cantonment. The map includes several labeled areas and features:

- MILITARY AREA**: Located in the lower-left quadrant.
- CANTONMENT AREA**: A grid-based area located centrally.
- SADAK**: A shaded rectangular area.
- TANJRI**: A location marked near the top left.
- NADI**: A location marked near the top center.
- BUNDI**: A location marked near the top right.
- TO JAG**: A directional arrow pointing upwards.
- CONTROLLED CANTONMENT AREA**: An area bounded by a dashed line.
- CONTROLLED AREA**: An area bounded by a dashed line.
- AREA BOUNDARY**: A boundary line marked with a dashed line.
- TO SAWARAN DUR**: A directional arrow pointing towards the top right.
- G.T. ROAD**: Labeled roads include G.T. ROAD FROM A-CANTT., G.T. ROAD, and RLY. STATION AMBALA CANTT.
- ALEXANDAR ROAD**: A road labeled on the bottom left.
- TO JAG**: A directional arrow pointing upwards.

LEGEND

1320 660 0 1320 2810 3980

SCALE: 1 = 1320

DRG. NO: D.T.P.(A) 1665 /70

Ramachandran